

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: David M. Knipe, Travis J. Taylor, Elizabeth E. McNamee

Continuation Application of

Application No.: 09/127,227

Filed: July 31, 1998

For: Replication-Competent Virus Expressing A Detectable Fusion Protein

Date: 01/16/02 Express Mail Label No. EL93059887945

1c971 U.S. PRO
10/050673
01/16/02

INFORMATION DISCLOSURE STATEMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This Information Disclosure Statement is submitted:

- ☐ under 37 CFR 1.129(a), or
(First/Second submission after Final Rejection)
- ☒ under 37 CFR 1.97(b), or
(Within any one of the following time periods: three months of filing national application (other than a CPA) or date of entry of the national stage in an international application; or before the mailing date of a first office action on the merits in a non-provisional application, including a CPA, or a Request for Continued Examination).
- ☐ under 37 CFR 1.97(c) together with either:
- ☐ a Statement under 37 CFR 1.97(e), as checked below, or
- ☐ a \$180.00 fee under 37 CFR 1.17(p), or
(After the 37 CFR 1.97(b) time period, but before final action or notice of allowance, whichever occurs first)
- ☐ under 37 CFR 1.97(d) together with:
- ☐ a Statement under 37 CFR 1.97(e), as checked below, and
- ☐ a \$180.00 fee under 37 CFR 1.17(p), or
(Filed after final action or notice of allowance, whichever occurs first, but on or before payment of the issue fee)
- ☐ under 37 CFR 1.97(i):
Applicant requests that the IDS and cited reference(s) be placed in the application filewrapper.
(Filed after payment of issue fee)

Statement Under 37 CFR 1.97(e)

- ☐ Each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement; or
- ☐ No item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned, after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of this Information Disclosure Statement.

Statement Under 37 CFR 1.704(d) (Patent Term Adjustment)

Applies to original applications (other than design) filed on or after May 29, 2000

- ☐ Each item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the Information Disclosure Statement.
- ☒ Enclosed herewith is form PTO-1449:
 - ☐ Copies of the cited references are enclosed.
 - ☒ Copies of cited references are enclosed except those entered in prior application, U.S. Application No. 09/127,227, to which priority under 35 U.S.C. 120 is claimed. The earlier application contains copies of the cited references.
 - ☐ The listed references were cited in the enclosed International Search Report in a counterpart foreign application.
 - ☐ The "concise explanation" requirement (non-English references) for reference(s) [] under 37 CFR 1.98(a)(3) is satisfied by:
 - ☐ the explanation provided on the attached sheet.
 - ☐ the explanation provided in the Specification.
 - ☐ submission of the enclosed International Search Report.
 - ☐ submission of the enclosed English-language version of a foreign Search Report and/or foreign Office Action.
 - ☐ the enclosed English language abstract.

☐ Applicant requests that the following non-published pending applications be considered:

Examiner's
Initials

____ U.S. Patent Application No. [], by [inventor(s)], filed [], Docket No.: []
____ U.S. Patent Application No. [], by [inventor(s)], filed [], Docket No.: []
____ U.S. Patent Application No. [], by [inventor(s)], filed [], Docket No.: []

Examiner

Date

- ☐ A copy of each above-cited application, including the current claims, is enclosed.
- ☐ A copy of each above-cited application, including the current claims, is enclosed, except those entered in prior application, U.S. Application No. [], to which priority under 35 U.S.C. 120 is claimed.

The Examiner is requested to return a copy of the above list of pending applications indicating which references were considered with the next office communication.

It is requested that the information disclosed herein be made of record in this application.

Method of payment:

- ☐ A check for the fee noted above is enclosed, or the fee has been included in the check with the accompanying Reply. A copy of this Statement is enclosed.
- ☐ Please charge Deposit Account 08-0380 in the amount of \$[]. A copy of this Statement is enclosed.
- ☒ Please charge any deficiency in fees and credit any overpayment to Deposit Account 08-0380.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By

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Dated: 11/15/02

| PTO 1449 REPRODUCED | | | | ATTORNEY DOCKET NO. 0725.1059-001 | | APPLICATION NO. | |
|--|-----|--|-----------|--------------------------------------|-------|-----------------|----------------------------------|
| INFORMATION DISCLOSURE CITATION IN AN APPLICATION January 15, 2002 | | | | APPLICANT David M. Knipe et al. | | | |
| | | | | FILING DATE January 16, 2002 | | GROUP | |
| U.S. PATENT DOCUMENTS | | | | | | | |
| EXAM INER INI- TIAL | | DOCUMENT NUMBER | DATE | NAME | CLASS | SUB- CLASS | FILING DATE IF APPROPRIATE |
| | AA | 4,859,587 | 22-AUG-89 | Roizman | 435 | 68 | |
| | AB | 5,288,641 | 22-FEB-94 | Roizman | 435 | 320.1 | |
| | AC | 5,328,688 | 12-JUL-94 | Roizman | 424 | 205.1 | |
| | AD | 5,658,724 | 19-AUG-97 | DeLuca | 435 | 5 | |
| | AE | 5,665,362 | 09-SEP-97 | Inglis et al. | 435 | 5 | |
| | AF | | | | | | |
| | AG | | | | | | |
| FOREIGN PATENT DOCUMENTS | | | | | | | |
| | | DOCUMENT NUMBER | DATE | COUNTRY | CLASS | SUB- CLASS | TRANSLATION YES NO |
| | AL | 0277773 | 28-JAN-88 | EPO | | | |
| | AM | WO89/09271 | 05-OCT-89 | PCT | | | |
| | AN | 0453242 | 16-APR-91 | EPO | | | |
| | AO | WO92/05263 | 02-APR-92 | PCT | | | |
| | AP | WO94/03207 | 17-FEB-94 | PCT | | | |
| | AQ | WO94/21807 | 29-SEP-94 | PCT | | | |
| | AL2 | WO94/03595 | 17-FEB-94 | PCT | | | |
| | AM2 | WO94/01573 | 20-JAN-94 | PCT | | | |
| OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.) | | | | | | | |
| | AR | Shih, M.-F. et al., "Expression of hepatitis B virus S gene by herpes simplex virus type 1 vectors carrying α - and β -regulated gene chimeras," <i>Proc. Natl. Acad. Sci. USA</i> , 81:5867-5870 (1984). | | | | | |
| | AS | Nguyen, L.H. et al., "Replication-Defective Mutants of Herpes Simplex Virus (HSV) Induce Cellular Immunity and Protect against Lethal HSV Infection," <i>J. Virol.</i> , 66(12):7067-7072 (1992). | | | | | |
| | AT | Gao, M. and Knipe, D.M., "Genetic Evidence for Multiple Nuclear Functions of the Herpes Simplex Virus ICP8 DNA-Binding Protein," <i>J. Virol.</i> 63(12):5258-5267 (1989). | | | | | |
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| | | FILING DATE January 16, 2002 | GROUP |
| OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.) | | | |
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| AW | Rice, S.A. and Knipe, D.M., "Genetic Evidence for Two Distinct Transactivation Functions of the Herpes Simplex Virus α Protein ICP27," <i>J. Virol.</i> , 64:1704-1715 (1990). | | |
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| EXAMINER | | DATE CONSIDERED | |

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| PTO 1449 REPRODUCED | | ATTORNEY DOCKET NO. 0725.1059-001 | APPLICATION NO. |
| INFORMATION DISCLOSURE CITATION IN AN APPLICATION January 15, 2002 | | APPLICANT David M. Kline et al. | |
| | | FILING DATE January 16, 2002 | GROUP |
| OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.) | | | |
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| | AR3 | Morrison, L.A. and Knipe, D.M., "Immunization with Replication-Defective Mutants of Herpes Simplex Virus Type 1: Sites of Immune Intervention in Pathogenesis of Challenge Virus Infection," <i>J. Virol.</i> 68:689-696 (1994). | |
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| | AU3 | Sambrook, et al., "Molecular Cloning: A Laboratory Manual," 2nd ED., Chapter 17 (1989). | |
| | AV3 | Cruz, et al., <i>PNAS</i> , 93: 6286-6290 (1996). | |
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| | AX3 | Stauber, et al., <i>Virology</i> , 213: 439-449 (1995). | |
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| | AT4 | Brideau, et al., <i>Journal of Virology</i> , 72(6): 4560-4570 (1998). | |
| | AU4 | Jons, et al., <i>Journal of Virological Methods</i> , 66: 283-292 (1997). | |
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| EXAMINER | | DATE CONSIDERED | |